



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/401,229	03/09/95	TANG	W 5016971057EN

FOLEY & LARDNER
3000 K STREET NW
SUITE 500
WASHINGTON DC 20007-5109

E5M1/0428

EXAMINER
LEE, J

ART UNIT
2501

PAPER NUMBER

DATE MAILED: 04/28/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
08/401,229Applicant(s)
Wallace T. Y. TangExaminer
John D. LeeGroup Art Unit
2501☒ Responsive to communication(s) filed on March 13, 1997 (Supplemental Amendment)☒ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 17-35 and 39-78 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 17-35, 39-51, 53-58, 60, 66-72, and 75-78 is/are allowed.☒ Claim(s) 52, 59, 61-65, 73, and 74 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.☐ received in Application No. (Series Code/Serial Number) _____☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The following action supplements the Office action mailed on March 17, 1997 (paper number 17), and responds to the amendment filed on March 13, 1997.

In the amendment filed on March 13, 1997, applicant submitted three (3) additional claims for consideration, the subject matter of these claims finding support on page 14 of the specification of the instant application. Applicant indicated that the late presentation of these three claims was necessitated by the discovery of potentially interfering applications (identified in the 03/13/97 amendment).

Since applicant's latest amendment was received by facsimile transmission in the Patent and Trademark Office prior to the mailing of the final Office action (paper number 17), the additional claims have been entered. An action with respect to these claims is set forth below. All of the rejections and requirements made in the Office action mailed on March 17, 1997 (paper number 17) are also repeated verbatim herein, and a **shortened statutory period for response is restarted** to begin with the mailing date of this action. Applicant should disregard the shortened statutory period for response set in paper number 17.

With respect to the requirement for copying the suggested claim, note that the applicant has been given three (3) months within which to meet the requirement. Although one (1) month is normally given to meet such a requirement, the Examiner has

authority to set a shortened statutory period other than one (1) month (MPEP 2305.02). In the instant case, the three (3) month response period is deemed appropriate so that applicant has only a single response period for all requirements in the Office action. **The extension of time provisions (37 C.F.R. 1.136) apply to all the requirements herein, including the requirement for copying the suggested claim. See MPEP 710.02(e).**

The Information Disclosure Statement filed by applicant on January 9, 1997, has been carefully considered by the Examiner. Although no rejections are made herein based on prior art cited in that Statement, one of the references therein (not previously of record in this application) discloses and claims subject matter that applicant appears to be able to make. A requirement to copy a claim is thus set forth below.

Claims 52, 59, 61-65, 73, and 74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is believed that the dependency of claim 52 is stated incorrectly since there is no antecedent support for the term "polisher" (line 1). For examination purposes, it is believed that claim 52 should depend from claim 48 rather than claim 47. In claim 59, line 2, the word "uncouples" should actually be --decouples--. The present wording makes the claim indefinite. Claims 61-65 are indefinite in that they are substantial duplicates of claims 48-52. Claims 73 and 74

are indefinite in that they are word-for-word identical to each other.

Claims 17-35, 39-51, 53-58, 60, 66-72, and 75 are allowable over the prior art of record for reasons previously developed during the prosecution of this application.

Claims 52, 59, 73, and 74 would also be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

Newly presented claims 76-78 are also allowable over the prior art of record. Note that these claims are very similar to the patent claim of U.S. Patent No. 5,433,651 (note the claim copying requirement below). U.S. Patent No. 5,433,651 is not available as a prior art reference against the claims of the instant application because of its later effective filing date.

It appears that applicant is able to make at least claim 1 of U.S. Patent 5,433,651 to Lustig et al (submitted by applicant in the Information Disclosure Statement of January 9, 1997). Applicant's Figure 6 (and discussion thereof on page 15 of the specification) appears to clearly provide basis for the subject matter of claim 1 of Lustig et al. Therefore,

The following claim number 1 from U.S. Patent No. 5,433,651 is suggested to applicant under 35 U.S.C. 135(a) for the purposes of an interference:

An in-situ chemical-mechanical polishing process monitor apparatus for monitoring a polishing process during polishing of a workpiece in a polishing machine, the polishing machine having a rotatable polishing table provided with a polishing slurry, said apparatus comprising:

- a) a window embedded within the polishing table, said window traversing a viewing path during polishing and further enabling in-situ viewing of a polishing surface of the workpiece from an underside of the polishing table during polishing as said window traverses a detection region along the viewing path;
- and
- b) means coupled to said window on the underside of the polishing table for measuring a reflectance, said reflectance measurement means providing a reflectance signal representative of an in-situ reflectance, wherein a prescribed change in the in-situ reflectance corresponds to a prescribed condition of the polishing process.

The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR 1.605(a).

Serial No. 08/401,229
Art Unit 2501

6

Applicant must copy the patent claim within THREE MONTHS from the date of this letter, as a part of a complete response to this Office action.

Failure to copy the claim will be taken as a concession that the subject matter of this claim is the prior invention of another under 35 U.S.C. 102(g) and thus also prior art under 35 U.S.C. 103(a). *In re Oguie*, 186 USPQ 227 (CCPA 1975).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Examiner John D. Lee at telephone number (703) 308-4886.


JOHN D. LEE
PRIMARY PATENT EXAMINER
GROUP ART UNIT 251